



Housing Committee  
Public Hearing  
March 4, 2010

Testimony of Jeffrey Freiser,  
Executive Director, Connecticut Housing Coalition

Support:

S.B. 317 - AAC BUILDINGS LOCATED WITHIN THE FIVE-HUNDRED-YEAR FLOODPLAIN.  
S.B. 320 - AAC THE SELECTION OF TENANT COMMISSIONERS.  
H.B. 5369 - AAC FORECLOSURE MEDIATION.  
H.B. 5370 - AN ACT AUTHORIZING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS OF MODERATE RENTAL HOUSING OPERATED BY THE HARTFORD HOUSING AUTHORITY.  
H.B. No. 5372 - AAC ACCESSIBLE HOUSING.  
H.B. 5374 - AAC PROMOTING AND SUSTAINING AFFORDABLE HOUSING IN CONNECTICUT.  
H.B. 5397 - AAC REAL ESTATE LICENSING FOR NONPROFIT HOUSING CORPORATIONS.

Conditional support – if amended:

S.B. 318 - AAC CHANGES TO CERTAIN HOUSING STATUTES.

Oppose:

H.B. 5371 - AAC A PILOT PROGRAM FOR AFFORDABLE HOUSING REPLACEMENT.  
H.B. 5373 - AAC ESTABLISHING RESIDENCY FOR TENANTS.

The Connecticut Housing Coalition represents the broad, vibrant network of community-based affordable housing activity across the state. Our more than 250 member organizations include nonprofit developers, human service agencies, resident associations, and diverse other housing practitioners and advocates. Founded in 1981, the Coalition works to expand housing opportunity and to increase the quantity and quality of affordable housing in Connecticut.

► S.B. 320 – AAC The Selection of Tenant Commissioners

Each housing authority in the state is governed by a board of commissioners, usually comprised of five members, although the largest housing authorities (with more than 3000 units) may have seven-member boards. C.G.S. Section 8-41 requires that one commissioner of a five-member board be a tenant of the housing authority, and that two commissioners of a seven-member board be tenants.

All across Connecticut, residents of public housing are actively involved in making their communities better places to live. They care deeply and work hard to improve the conditions of public housing. They want their children to live in an environment that is safe and decent. And they expect that a tenant who is serving on the housing authority's board of commissioners will truly provide a tenant's voice, offering the tenants' perspective in the deliberations of the local

authority. Public housing tenants want and deserve the right to elect the tenant commissioner who is supposed to represent them.

S.B. 320 provides an option, in particular circumstances, for the election of tenant commissioners. If residents have joined together in a tenant council that encompasses all of the developments of a housing authority, they should be allowed to hold an election for tenant commissioner. If there is not an authority-wide resident council, but a sufficient number of residents petition for an election, then too residents should be able to hold an election.

We expect that, at most housing authorities, tenant commissioners will continue to be appointed through the current procedures. But where tenants seek to participate, and when they want to choose who will represent them, they should have a right to an election.

Included with this testimony is recommended substitute language for S.B. 320, intended to clarify the election process and conform state statute to federal requirements.

► H.B. 5397 – AAC Real Estate Licensing for Nonprofit Housing Corporations

Under Connecticut's real estate licensing law, you do not need a license to rent out apartments in a building that you own. The definition of a real estate broker is "any person, partnership, association, limited liability company or corporation which acts for another person or entity..." (C.G.S. Sec. 20-311).

The law is ambiguous, however, when applied to a nonprofit housing corporation that develops housing using the federal Low Income Housing Tax Credit program. These tax credits are the most important source of federal assistance for affordable rental housing. Federal statute sets aside 10% of the credits for nonprofit sponsors. However, a nonprofit sponsor that utilizes federal tax credits to finance a project must create a separate ownership entity, a limited partnership with tax credit investors. The nonprofit sponsors the project, serves as the general partner (perhaps through a subsidiary), has full management responsibility and all of the risk associated with the housing development. In every way, the nonprofit is managing the housing for itself. Under the clear intent of our real estate licensing law, the nonprofit should not need a license.

H.B. 5397 would provide a specific, narrow licensing exemption for nonprofit-sponsored tax credit projects, eliminating the confusion created by the limited partnership ownership form.

The current situation is particularly difficult because most housing nonprofits cannot comply with the licensing requirement of Section 20-312(b), which at (3)(B) requires for a nonstock corporation that "one or more real estate brokers constitute at least fifty-one per cent of the members of the nonstock corporation." Housing nonprofits are typically neighborhood-based organizations whose boards are broadly representative of the local community, making the 51% standard impractical if not impossible.

At this time, we also plan to seek an administrative remedy, through an opinion from the Real Estate Commission. However, given the ambiguity in the current law, we urge passage of H.B. 5397 to provide a clear exemption.

► H.B. 5371 – AAC A Pilot Program for Affordable Housing Replacement

We strongly oppose H.B. 5371, which would allow the demolition of 50% of the public housing stock in up to 31 municipalities, including our large cities. The bill would gut C.G.S. Section 8-64a, which requires the DECD Commissioner to conduct a careful review and assure that specific standards are met before approving the sale or destruction of public housing.

Certainly, Connecticut's affordable housing needs remain severe. H.B. 5371 would permit this devastating loss of public housing in any municipality that would continue to meet the 10% level of assisted housing as defined in Section 8-30g. But affordable housing remains a precious resource even in these cities and towns. Even if 10% of a municipality's housing is assisted, then 90% have no rent or sale price restrictions, and may be unaffordable now or anytime in the future. Please reject H.B. 5371, which moves us dramatically in the wrong direction in our efforts to promote affordable housing.

► H.B. 5373 – AAC Establishing Residency for Tenants

We urge rejection of H.B. 5373, which would deprive tens of thousands of tenants of their basic legal protections. We understand that the intent of the bill is to deal with "guests" who are no longer welcome. But as drafted, H.B. 5373 would take away tenants' rights from anyone whose name is not on a written lease or who is not a dependent of someone named on the lease. In Connecticut, countless tenants – particularly low-income tenants – live in apartments with month-to-month oral leases. Spouses and domestic partners may also not have their names on a lease. H.B. 5373 would make all of these tenants subject to the immediate removal or arrest by police at the whim of a landlord.

► S.B. 318 – AAC Changes to Certain Housing Statutes

Section 5 of S.B. 318 would make for-profit developers eligible for assistance from DECD's Pre-development Loan Program. The apparent goal is to incentivize profit-motivated companies to build affordable housing. If this were a period of growing state resources, the creation of a new incentive might make sense. But we must recognize that this is a time of reduced resources, and that nonprofits are the ones who build housing that serves those with the lowest incomes and greatest needs in the most difficult settings. In our market system based on the principle of "risk-for-profit," for-profit developers are expected to put their own working capital at risk in expending pre-development costs. In a period when nonprofits are desperate for financing to carry out their vital work, we cannot support the diversion of scarce housing resources from nonprofits to for-profits.

The other provisions of SB 318 are valuable, and we would be pleased to support the bill if Section 5 were deleted.

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Attachment: Proposed substitute language for S.B. 320

## S.B. 320 – AAC The Selection of Tenant Commissioners

Notes on Proposed Substitute Language  
Submitted by  
Connecticut Housing Coalition and  
Connecticut Public Housing Resident Network

- Inclusion of Section 8 Tenants – Federal rules allow any tenant “directly assisted” by the housing authority to serve as a tenant commissioner and to participate in the election of a tenant commissioner. “Directly assisted” is defined to include Section 8 recipients. (See 24 CFR 964.410, 24 CFR 964.415 and 24 CFR 964.420.) S.B. 320 should similarly enfranchise all tenants of a housing authority, including Section 8 tenants, rather than only tenants who live in housing owned or managed by the authority.
- Full Role for Tenant Commissioner – Federal rules (24 CFR 964.430) require that a tenant commissioner have the right to fully participate in all board decisions. Connecticut law (C.G.S. Sec. 8-41(a)) currently restricts this participation. S.B. 320 should eliminate this discriminatory practice.
- Jurisdiction-wide Tenant Organizations – A tenant organization may represent all tenants of a housing authority or only tenants in a single development. S.B. 320 should distinguish between these two types of tenant organizations, and provide only to a jurisdiction-wide tenant organization the power to select a tenant commissioner through a means provided in its by-laws.
- Petition for Election – An election of tenant commissioner should be available by petition of 10% of all tenants or 75 tenants, whichever is less, recognizing that the 10% threshold may be difficult to achieve in a large housing authority.
- Third Party to Administer Election – It is common for a third party, such as the League of Women Voters or the Public Housing Resident Network, to administer a tenant election. S.B. 320 should encourage the use of a third party, agreeable to the tenants, to eliminate any appearance of bias in the conduct of an election by a housing authority.

*For further information:*

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Proposed Substitute Language

S.B. 320 – AAC The Selection of Tenant Commissioners

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 8-41 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) When the governing body of a municipality other than a town adopts a resolution as described in section 8-40, it shall promptly notify the chief executive officer of such adoption. Upon receiving such notice, the chief executive officer shall appoint five persons who are residents of said municipality as commissioners of the authority, except that where the authority operates more than three thousand units the chief executive officer may appoint two additional persons who are residents of the municipality. If the governing body of a town adopts such a resolution, such body shall appoint five persons who are residents of said town as commissioners of the authority created for such town. The commissioners who are first so appointed shall be designated to serve for a term of either one, two, three, four or five years, except that if the authority has five members, the terms of not more than one member shall expire in the same year. Terms shall commence on the first day of the month next succeeding the date of their appointment, and annually thereafter a commissioner shall be appointed to serve for five years except that any vacancy which may occur because of a change of residence by a commissioner, removal of a commissioner, resignation or death shall be filled for the unexpired portion of the term. If a governing body increases the membership of the authority on or after July 1, 1995, such governing body shall, by resolution, provide for a term of five years for each such additional member. The term of the chairman shall be three years. At least one of such commissioners of an authority having five members, and at least two of such commissioners of an authority having more than five members, shall be a tenant or tenants of the authority selected pursuant to subsection (c) of this section [who live in housing owned or managed by such authority, if any exists, provided that any such tenant shall have resided in such housing for more than one year or is a tenant who previously resided in such housing for more than one year and is receiving housing assistance in a housing program directly administered by such authority and provided further that no such tenant shall have the authority to vote on any matter concerning the establishment or revision of the rents to be charged in any housing owned or managed by such authority]. If, on October 1, 1979, a municipality has adopted a resolution as described in section 8-40, but has no tenants serving as commissioners, the chief

executive officer of a municipality other than a town or the governing body of a town shall appoint a tenant who meets the qualifications set out in this section as a commissioner of such authority when the next vacancy occurs. No commissioner of an authority may hold any public office in the municipality for which the authority is created. A commissioner shall hold office until his successor is appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and shall be conclusive evidence of the legal appointment of such commissioner, after he has taken an oath in the form prescribed in the first paragraph of section 1-25. The powers of each authority shall be vested in the commissioners thereof. Three commissioners shall constitute a quorum if the authority consists of five commissioners. Four commissioners shall constitute a quorum if the authority consists of more than five commissioners. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present, unless the bylaws of the authority require a larger number. The chief executive officer, or, in the case of an authority for a town, the governing body of the town, shall designate which of the commissioners shall be the first chairman, but when the office of chairman of the authority becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its commissioners a vice chairman, and it may employ a secretary, who shall be executive director, and technical experts and such other officers, agents and employees, permanent and temporary, as it requires, and shall determine their qualifications, duties and compensation, provided, in municipalities having a civil service law, all appointments and promotions, except the employment of the secretary, shall be based on examinations given and lists prepared under such law, and, except so far as may be inconsistent with the terms of this chapter, such civil service law and regulations adopted thereunder shall apply to such housing authority and its personnel. For such legal services as it requires, an authority may employ its own counsel and legal staff. An authority may delegate any of its powers and duties to one or more of its agents or employees. A commissioner, or any employee of the authority who handles its funds, shall be required to furnish an adequate bond. The commissioners shall serve without compensation, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

(b) Tenants of the authority may form a tenant organization that shall have the power to recommend or designate tenants for appointment as tenant commissioner in accordance with subsection (c) of this section. Upon the election of the governing board of a tenant organization, such organization may request to be recognized by the authority as an official tenant organization representing some or all tenants of the authority. If the election of the governing board was conducted fairly and with sufficient notice of the election, the authority shall recognize the tenant organization as an official tenant organization.

[(b)] (c) Any tenant organization composed of tenants [residing within units owned or managed by] of the [appointing] authority may indicate to the appointing [such] authority its desire to be notified of any pending appointment of any such commissioner. A reasonable time before appointing any such commissioner, the [appointing] authority shall notify any such tenant organization [and, in making such appointment, such authority shall consider tenants suggested by such tenant organizations]. If a tenant organization has been recognized by the housing authority as an official tenant organization representing all of the tenants of the authority, then the appointee to tenant commissioner shall be selected by (1) a fair election by the tenants of the authority, provided all such tenants received sufficient notice of such election, or (2) other means provided for in the by-laws adopted by such tenant organization, including, but not limited to, selection by its governing board. If no tenant organization has been recognized by the authority as an official tenant organization representing all of the tenants of the authority but ten per cent of the tenants of the authority or 75 of such tenants, whichever is less, petition the housing authority for an election, then the appointee to tenant commissioner shall be selected by a fair election by the tenants of the authority. If a tenant commissioner is not selected by other means pursuant to this subsection, then the appointing authority shall select the appointee to tenant commissioner. In making such selection, the appointing authority shall consider any tenants suggested by tenant organizations. No such appointment shall be effective until the provisions of this subsection have been complied with. In conducting an election pursuant to this subsection, an authority shall use its best efforts to select a third party to administer such election, and such third party shall be selected to the extent possible with mutual agreement of any official tenant organizations representing tenants of the authority.

[(c)] (d) Notwithstanding any provision of subsection (a) of this section or any other provision of the general statutes [to the contrary], a commissioner of an authority may serve as a justice of the peace or a registrar of voters.

(e) For purposes of this section, a “tenant of the authority” means a tenant who lives in housing owned or managed by such authority or is receiving housing assistance in a housing program directly administered by such authority.